

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-04-4682.M5

MDR Tracking Number: M5-04-1087-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on December 15, 2003.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The 18 aquatic therapy sessions from 03-11-03 through 04-18-03 and three examinations (99214) on 03-07-03, 04-08-03, and 05-02-03 were found to be medically necessary. The office visits (99213-25, 99213 & 99212), all aquatic therapy in excess of what was approved, special reports, therapeutic exercises, unusual travel, prolonged physician service, Functional Capacity Evaluation-muscle test, folding walker, durable medical equipment, pad for heat unit, humidifier, TLSO-corset, LSO-flexible and hydrocolloid dressing from 01-06-03 through 09-02-03 were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 27th day of February 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this Order. This Order is applicable to dates of service 03-07-03 through 05-02-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 27th day of February 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/pr

February 26, 2004

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

**REVISED REPORT
Corrected Disputed Services**

Re: MDR #: M5-04-1087-01
IRO Certificate No.: IRO 5055

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine.

REVIEWER'S REPORT

Clinical History:

Patient underwent surgery and extensive physical medicine treatments, including work hardening and aquatic therapy, after injuring lumbar spine and shoulder while on his job on ____.

Disputed Services:

- Prolonged physician service
- Special reports
- Therapeutic exercise
- Aquatic therapy
- Unusual travel
- Office visits-evaluation
- Office visits & other E/M services
- Office visits-15 minutes & other E/M services
- Functional capacity evaluation-muscle test
- Folding walker
- Durable medical equipment
- Pad for heat unit
- Humidifier
- TLSO-corset
- LSO-flexible
- Hydorocolloid dressing

Decision:

The reviewer partially agrees with the determination of the insurance carrier. The 18 aquatic therapy sessions during the six-week period from 03/11/03 through 04/18/03 were medically necessary. The three examinations (99214) on 03/07/03, 04/08/03 and 05/02/03 were also medically necessary. All other services and procedures were not medically necessary.

Rationale:

Based on the lumbar percutaneous nucleoplasty at L4-5 and L5-S1 performed on 01/22/03, it is reasonable to conclude that some type of post-operative rehabilitation was indicated. The examinations to determine treatment and the patient's response to treatment were therefore also medically necessary. That position is bolstered by the fact that the patient's pain rating decreased from 4-5 (on 03/07/03) to 3-4 and that lumbar ranges of motion were increased when re-examined on 04/08/03.

On the other hand, the 05/02/03 re-examination showed a definite plateau since no further increases in lumbar ranges of motion had been achieved and the patient's pain rating had remained constant. Thus additional treatment was not medically necessary. It is also interesting to note the patient's pain rating remained at the 3 plateau during the two weeks (04/18/03 to 05/02/03) that he did not receive any treatment.

If indeed further aquatic therapy was needed after the 18 approved sessions ending on 04/18/03, doctor/staff supervision was no longer needed since the patient by that time had sufficient knowledge and experience to perform the aquatic therapy activities on his own in any pool.

The folding walker, durable medical equipment, pad for heat unit, humidifier, TLSO-corset, and LSO-flexible were not medically necessary. In fact, the walker, TLSO-corset and LSO-flexible would most likely have hindered and restricted the “motion and movement” necessary for a satisfactory recovery and were contradictory to the physician’s prescribed aquatic therapy.

Sincerely,